

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DANIEL HERNANDEZ, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TERESA FERREYRA,

Respondent-Appellant,

and

JUAN HERNANDEZ-RODRIGUEZ,

Respondent.

UNPUBLISHED

August 26, 2004

No. 253589

Kent Circuit Court

Family Division

LC No. 03-004300-NA

Before: Hoekstra, P.J., and Cooper and Kelly, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(i), and (j). We affirm.

This Court reviews a trial court's decision to terminate parental rights for clear error. MCR 3.911(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, then the trial court must terminate respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review for clear error the trial court's decision with regard to the child's best interests. *Id.* at 356-357.

The trial court did not clearly err in finding the statutory grounds had been satisfied by clear and convincing evidence. Respondent's parental rights to two children were terminated in 1996 because of "serious and chronic neglect" and there was evidence presented that respondent continued to suffer from the same parenting inabilities that caused those prior terminations. Although she cooperated with the provided services, she appeared unable to master the skills necessary to parent independently. In February 2003, she was substantiated for medical neglect of another child, Estaban, who suffered from microcephalis and developmental delays. In May

2003, respondent brought Estaban to the hospital with a broken femur bone. Her explanations of the injury were both conflicting and inadequate to explain the trauma necessary to cause this broken bone. While a petition to terminate her parental rights to Estaban and two other children was pending, the minor child who is the subject of this appeal, Daniel, was born, and petitioner brought another petition seeking the termination of respondent's parental rights to Daniel as well. Respondent's rights to Estaban were terminated¹ and, about one month after that, the trial court terminated her rights to Daniel. The trial court did not err in terminating her parental rights. The serious and unexplained break of Estaban's femur demonstrated that respondent, at best, lacked the awareness necessary to protect a child or, at worse, was complicit in the injury.

The trial court also did not clearly err in finding that termination was consistent with the child's best interests. Daniel needed a stable and secure home that respondent appeared unable to provide.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jessica R. Cooper
/s/ Kirsten Frank Kelly

¹ The other two children were placed in the custody of their father and deleted from the termination petition. Respondent does not appeal the termination of her parental rights to Estaban.